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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,860	07/16/2003	Andrew R. Weisenberger	W-333	1759
802	7590	09/21/2005		
DELLETT AND WALTERS P. O. BOX 2786 PORTLAND, OR 97208-2786			EXAMINER FRANK, RODNEY T	
			ART UNIT 2856	PAPER NUMBER

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/621,860	Applicant(s) WEISENBERGER ET AL.	
	Examiner Rodney T. Frank	Art Unit 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 32 is objected to because of the following informalities: In the last line of the claim, "walls" should be replaced with --wall--. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rynhart et al. (U.S. Patent Number 6,340,892; hereinafter referred to as Rynhart).
Rynhart discloses that a moisture meter (1) has an LCD display (8) driven by a digital microcontroller (50) which generates digital moisture reading data. Readings are stored as discrete records in files. The microcontroller (51) stores a library of material data and automatically compensates signals from a capacitive/impedance sensor circuit (51) according to both stored material parameter values and sensed temperature. Users may edit the parameter values. A non-removable cover (4) is used at the final stage of production to configure the meter for the nature of interfacing (such as serial port interfacing) required (Please see the abstract).
4. In regard to claims 1, 11, and 19 Rynhart discloses a method and system for certifying at least a portion of structural components of an interior of a structure relative to moisture content, comprising the steps of: measuring moisture content levels within

structural components of said portion of the interior of the structure; and providing a certificate of moisture content level measurements. Figure 10, for example outlines the various types of wood, wall materials, and roofing materials that can be measured.

Upon reading the specification in order to gain a better insight as to what the "certificate" being issued meant, it was determined by the examiner that the certificate is a document or report that is given upon the completion of a moisture test to determine whether a particular structure passed or failed the test based upon given parameters (page 2 line 33 through page 4 line 3, for example). In the Rynhart reference, moisture content is determined (see column 1 lines 25 and 26) for structural components of the interior of a structure (see column 2 line 65 through column 3 line 2). Then, since the certificate is a document that gives information regarding the results for the moisture test, Rynhart discloses beginning in column 6 with line 66 and continuing through column 7 line 2 whereby the use of Microsoft Office software can be used to generate a report, certificate, or any other document to report data. The reporting of data using Microsoft Office software, though not exactly a certificate, would be deemed as an obvious equivalent to one of ordinary skill in the art. The examiner would also like to mention that though the certificate may be a simpler reporting means than a detailed report as the one described in the Rynhart reference, utilizing the certificate in lieu of the report does not provide any benefit nor produce any unexpected result over the prior art.

In reference to claims 2-4 and 12, Rynhart describes in column 6 lines 28 through 46 how any data recorded may be annotated with notes for the file. Therefore,

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the reference would indicate that one of ordinary skill in the art would be able to easily assess the area under test and make a determination whether or not the area or areas under test are compliant or non-compliant within established moisture testing regulations, such regulations being well known within the construction industry (for example, see ASTM D4444-92e1 for calibration standards and also ASTM D4442 for moisture content measurement of wood and wood based materials).

In reference to claims 5-9, 14-18, and 20-24, though the specific structure under test is not specifically disclosed, the reference discloses in column 1, lines 1 through 18 that the device is used for surveying and it has an advantage of being used in environments such as attic spaces. Since an attic is usually associated with a house and surveying is also used, amongst other things, during home inspection, the terminology used would refer to a structure that would meet the description of a "building".

In reference to claims 10, 13, 25, and 29-31, though the specific percentage value that is considered to be desired is not specifically disclosed, this parameter is a design choice that would be obvious to one of ordinary skill in the art. For example, an article from the Department of Wood and Paper Science; Housing and Clothing at the University of Minnesota entitled "Testing Housing Materials for Moisture" it states that if moisture content is measured to be less than 10%, then there is no need to worry, while a reading above 20% could indicate a serious moisture problem (this can also be found on line at the following internet address: <http://www.extension.umn.edu/info->

u/household/BK270.html). Therefore, these percentage parameters are viewed as a design choice well within the preview of one of ordinary skill in the art.

In reference to claims 32-34, Rynhart discloses that his device is specifically used for wood, which is the material usually associated with a window or door frame, and for walls or ceiling since the capability for measuring drywall is disclosed.

Response to Arguments

5. Applicant's arguments with respect to claims 1-31 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

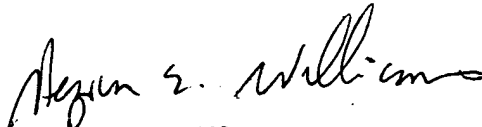
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney T. Frank whose telephone number is (571) 272-2193. The examiner can normally be reached on M-F 9-5:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RTF
September 15, 2005


HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800